



WP.(MD) Nos.26834 and 26835 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.06.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) Nos.26834 and 26835 of 2022
and
W.M.P(MD)Nos.21027 and 21029 of 2022**

Ramasamy

... Petitioner in both W.Ps.

-VS-

- 1.The Director,
Directorate of Mines and Geology,
Alandur Road, Guindy Industrial Estate,
Guindy,
Chennai – 600 032.
- 2.The District Collector,
Pudukottai,
Pudukottai District.
- 3.The Assistant Director,
Geology and Mining Department,
District Collector Office Campus,
Pudukottai District.
- 4.The Revenue Divisional Officer,
Revenue Divisional Office,
Pudukottai,
Pudukottai District.



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5.The Tahsildhar,
Thirumayam Taluk Office,
Pudukottai District.

6.The Revenue Inspector,
Virachilai Bit -1 Village,
Thirumayam Taluk,
Pudukottai District.

7.The Village Administrative Officer,
Virachilai Bit-1 Village,
Thirumayam Taluk,
Pudukottai District. Respondents 1 to 7 in both W.Ps

8.Mr.V.Nallaiya 8th Respondent in W.P(MD)No.26834/2022

9.Mr.R.Karuppiah 8th Respondent in W.P(MD)No.26835/2022

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the impugned order passed by the third respondent office vide proceedings in R.C.No.128/2022 (G&M) dated 26.10.2022 and R.C.No.148/2022 (G & M) dated 28.10.2022 respectively and quash the same as illegal.

For Petitioner :Mr.Henri Tiphangne

For R-1 to R-7 :Mr.R.Baskaran,
Additional Advocate General, assisted by

Mr.S.Shanmugavel,
Additional Government Pleader



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For R-8

:Mr.M.Rajarajan(In W.P(MD)No.26834/2022)
Mr.M.Mahaboob Athiff
(In W.P(MD)No.26835/2022)

COMMON ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Challenging the order passed by the third respondent vide proceedings in R.C.No.128/2022 (G&M) dated 26.10.2022, the writ petition in W.P(MD)No. 26834 of 2022 has been filed.

2. Mr.M.Rajarajan, learned counsel appearing for the eighth respondent in W.P(MD)No.26834 of 2022/licensee, would submit that the eighth respondent had surrendered the quarry and therefore, the writ petition has become infructuous.

3. In any event, we will have to decide on the future course of action. Hence, we record the submissions of the learned counsel and we are refrained from going into the violations regarding distance norms insofar as the quarry in Survey No.995/1B(P).



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4. As regards the writ petition in W.P(MD)No.26835 of 2022, the writ petition has been filed, challenging the order passed by the third respondent vide proceedings in R.C.No.148/2022 (G & M) dated 28.10.2022.

5. The main grievance of the petitioner in both the writ petitions is that there are several violations of the Rules regarding the distance between the quarry and inhabited sites, certain lands, structures and water body.

6. The District Collector, Pudukkottai, was directed to file a status report. She had filed two status reports. One is dated 23.01.2023 and the other one is dated 20.04.2023. There were certain contradictions in those two reports. Hence, we had by our order dated 21.04.2023, appointed Mr.S.Inian Karthik, an Advocate practising in Madurai Bench of Madras High Court, as Advocate Commissioner to visit the area in question and note down the physical features.

7. We had also required the District Collector to file a clarification report regarding the discrepancies found in the status reports filed by her. The District Collector while acknowledging the fact that there are some contradictions in the reports, had stated that her inspecting officials might have been perplexed in measuring the radial distance with conventional type of



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measurement and she had claimed that this was not an intentional misdeed but an inadvertent error. We accept the said explanation and reject all the earlier reports.

8. We are left with the report of the Commissioner. From the report of the Commissioner, we find that as far as quarry in Survey No.995/1A which has been leased to one Karuppiah, there are lands classified as 'Natham Manai' within the prohibited distance of 300 meters.

9. Rule 36(1-A)(a) of the Tamil Nadu Minor Mineral Concession Rules, 1959 (in short "the Rules"), provides that no lease shall be granted for quarrying stone within 300 meters from any inhabited sites.

10. Inhabited site is defined in explanation (iii) of Rule 36 of the Rules, which reads as follows:

“Explanation:[(iii) 'inhabited site' shall mean a village site or town site or a house site as referred to in the revenue records or a house site or layout approved by a Local Body or Town or Country or Metropolitan Planning Authority, where the said Body or Authority is created under a statute and empowered to approve such an area as a house site or lay-out area.]”



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11. A close reading of the above definition would show that quarrying cannot be permitted within 300 meters of the land which has been classified as Natham lands. The question of grant of approval and other formalities under the Tamil Nadu Town and Country Planning Act, 1971, cannot be introduced in view of the very clear explanation to "inhabited site" under Rule 36.

12. As we had already adverted to from the report of the Commissioner, we find that the land in Survey Nos.1178/10 and 12, classified as 'Natham' are situate within the prohibited distance of 300 meters from the proposed quarry site.

13. Another factor which has been pointed out by the Commissioner is that a water body called Virugampatchi Kuttai which was available was excavated by the earlier licensees. A water body has been therefore obliterated because of the act of the officials in granting lease. The same may not be a factor to be considered since the Rules do not prohibit mining in a water body also.

14. However, in view of the fact that the quarry is situate within 300 meters of an inhabited site, we do not think that we can allow mining to



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continue in that area.

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15. Though the learned counsel appearing for the eighth respondent licensee Mr.Karuppiah, would submit that the Commissioner was not right in using DGPS(Differential Global Positioning System) for measuring the distance, the Commissioner has set out his explanation for using DGPS system in Paragraph No.3 of the report. We accept the said explanation.

16. It is also the objection of the learned counsel for the eighth respondent that the Commissioner has measured the distance from the outer edge of the existing quarry area in Survey No.995/1A. But, the lease that has been granted is to a different area which is situate at a distance.

17. We are unable to accept the submission of the learned counsel since the Rules specifically says that the distance shall be measured from the boundary of the site. It is therefore, clear to our mind that no quarrying operation can be allowed in the sites in question in future.

18. Hence, the writ petitions are allowed and the licence will stand cancelled and there will be prohibition from carrying on any quarrying



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operation in future in the sites in question. It will be for the purpose to implement the reclamation measures as mandated in Rule 35 of the Rules. The remedies of the eighth respondent Karuppiah against the State Government are left open.

19. We place on record our appreciation for the work done by the Advocate Commissioner. The State Government shall pay a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the Advocate Commissioner. Such payment shall be paid within ten days from today. No Costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.]

[L.V.G., J.]

28.06.2023

NCC : Yes/No
Index : Yes/No

PM



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